

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	14-CR-00277(DLI)
	:	
	:	United States Courthouse
-against-	:	Brooklyn, New York
	:	
	:	Friday, August 15, 2014
SYED IMRAN AHMED,	:	11:22 a.m.
	:	
Defendant.	:	
	:	

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TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE
BEFORE THE HONORABLE DORA L. IRIZARRY
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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1 (In open court.)

2 (Defendant enters the courtroom.)

3 COURTROOM DEPUTY: Criminal cause for status
4 conference, Docket Number 14-CR-277, United States versus Syed
5 Ahmed. Please state your appearances.

6 MR. BUFORD: Good morning, Your Honor. It's Turner
7 Buford for the United States, and with me at counsel table are
8 Assistant United States Attorneys William Campos and Erin
9 Argo.

10 THE COURT: Good morning to all of you. For the
11 defendant.

12 MR. FODEMAN: Good morning, Your Honor. Moe Fodeman
13 and Catherine Grealis from Wilson, Sonsini, Goodrich & Rosati
14 here in New York, with our client, Dr. Ahmed. Good morning.

15 THE COURT: Good morning to all of you.

16 THE DEFENDANT: Good morning.

17 THE COURT: So where are we on this matter? I've
18 seen that there has been some discovery that's been tendered.
19 Where are we moving?

20 MR. BUFORD: Your Honor, since the last status
21 conference, in addition to producing some substantive
22 documents, the government has taken steps to further refine
23 the description of the information available to the defense
24 from the search warrant, search warrants that were executed in
25 this case, including producing the underlying applications and

1 court papers as well as documents related to the execution of
2 the warrants.

3 So sketches of the respective premises, photographs
4 of the respective premises, and some inventory documents with
5 respect to what was seized. And the hope is that this will
6 facilitate review by the defense.

7 We've also prepared an inventory of the electronic
8 images that were taken by the government during execution of
9 the warrants. It is a substantial amount of material. We've
10 broken it down by site, by device, by the size of the raw
11 forensic image for each device, and then the size of the
12 extracted files, that is, the files that the Office of
13 Inspector General for the Department of Health and Human
14 Services has been able to extract from the forensic images.

15 And the hope is that this will facilitate a review
16 in stages by the defense. Of course, we're happy to provide
17 it all in bulk if that's the way to go. It is a substantial
18 volume of material. It is a relatively complex case involving
19 review of medical records.

20 The government is, of course, doing its own review
21 and is producing relevant documents as it identifies them on a
22 rolling basis. We've made one production along those lines
23 since the last status conference, and we expect there will be
24 some others.

25 THE COURT: This is all now electronic material?

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1 MR. BUFORD: Yes, that's right, Your Honor. The
2 government did seize approximately 37 boxes worth of hard copy
3 documents which have been available to the defense, but I'm
4 told that we are almost finished the process of having them
5 scanned such that we can make them available electronically as
6 well. That will hopefully facilitate review.

7 But, given the volume of the material, it's
8 necessarily a painstaking process I think for both sides. And
9 obviously, Dr. Ahmed is currently incarcerated, so that slows
10 the review to some extent, although we've been having
11 discussions with the defense about reaching out to the MDC,
12 which we've done, to see if there can be some accommodations
13 that might help Dr. Ahmed with his own individual review of
14 the materials. I think we have some options that we'll
15 continue to discuss with the defense along those lines.

16 But I was able to speak with Mr. Fodeman and
17 Ms. Grealis prior to today, and I think the parties would
18 jointly and respectfully propose that we set another status
19 conference for approximately 60 days out so that we can -- the
20 defense can continue to review the materials, the government
21 can continue to produce relevant documents if we identify
22 them, and we can also continue to see if there's any
23 possibility for resolution short of trial.

24 THE COURT: In terms of the electronic data and the
25 production of the electronic data, what is best for counsel to

1 provide to the government? I know sometimes where the data is
2 extensive, as it appears it is here, sometimes the government
3 wants the defense to provide a hard disk. And so I just want
4 to get an idea if that might be the best way to go for the
5 defense and approximately how many hard disks will be needed,
6 because they're going to want to make a request for
7 authorization for that kind of discovery, and it might require
8 consulting with Jerry Tritz further to see what's the cheapest
9 way to get the proper vehicles to the government so that this
10 can be expedited.

11 MR. BUFORD: One of the reasons we generated the
12 inventory was to help with that process, Your Honor. It's my
13 understanding that the raw forensic images for each of the
14 devices, if you were to add them up cumulatively, come to
15 multiple terabytes worth of data, which is very large.
16 Obviously, the extracted files, so the sort of usable working
17 files from each device, again, if you add them up
18 cumulatively, my understanding is they come in at
19 approximately 1 terabyte worth of material.

20 So we're happy to provide either the complete set of
21 forensic images or the complete set of extracted files or both
22 to the defense. We're also happy to provide it on a sort of
23 device-by-device basis if the defense has certain computers
24 that they're more interested in than others.

25 My understanding is, for all of the electronic

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1 materials, if we went with just the extracted files, it would
2 need to be on a hard drive to give it. One hard drive I think
3 might be sufficient. If the forensic images are what's wanted
4 for all of the devices, I think we're talking about multiple
5 hard drives.

6 It's possible, if the defense would prefer to review
7 it on a computer-by-computer basis, that we might be able to
8 provide it in stages on disks. But I think if we're to
9 provide it in bulk, it would have to be at least on one hard
10 drive.

11 THE COURT: What's your preference, Mr. Fodeman?

12 MR. FODEMAN: Well, let me start by saying that the
13 amount of discovery here seems almost staggering, obviously.
14 And --

15 THE COURT: Well, the deeper into the electronic age
16 that we get, the more staggering it is.

17 MR. FODEMAN: That's true. And here, obviously, the
18 government has done a thorough investigation and has done a
19 number of search warrants and recovered a number of devices,
20 so that's --

21 THE COURT: And I'm also pleased that they're
22 working on it quickly to review and to get this in a form
23 that's available and searchable.

24 MR. FODEMAN: They've been great and I compliment
25 them. They've been helpful and we've worked together I think

1 very well in trying to get us the stuff as quickly as
2 possible. That's most critical.

3 I don't know if I'm in a position to say whether I
4 need all of it or some of it or it's better to go piece by
5 piece until I sort of have a better sense of what's out there,
6 and that will involve conversations with the client and with
7 Mr. Buford and the rest of the team. But I don't expect it to
8 be a problem and if we need funding, we'll come to you.

9 One issue that's come up -- and Mr. Buford alluded
10 to it -- is, obviously, the challenge here is made greater by
11 the fact that Dr. Ahmed is in custody. Not only does he need
12 to review the materials, but we need -- we need him to be able
13 to review the materials so he can educate us about the case.
14 This is, obviously, a technical sort of case and it involves
15 medical records and stuff that, candidly, I'm not particularly
16 familiar with and Dr. Ahmed is.

17 The government has been good enough to explore our
18 various options. I have to say that so far, it's been
19 challenging giving him the access he needs, but I think we
20 might have come up with a solution, which would involve our
21 firm providing a blank laptop computer and then loading it up
22 with all the discovery and then providing it to the MDC to
23 store at a specific location, I believe in the visitors' room,
24 and give Dr. Ahmed generous opportunity to sit with the
25 computer and look at the discovery.

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1 THE COURT: I imagine that that kind of a computer
2 has to be Internet disabled.

3 MR. FODEMAN: Yes, that's one of the requirements,
4 and we've talked to our IT folks and that can be done.

5 THE COURT: Okay.

6 MR. FODEMAN: So I guess all that by way of saying I
7 don't know if we need the Court's intervention at this point
8 on any of that, because I think we're moving in the right
9 direction. And should that change, we'll certainly write to
10 the Court and let you know about the issue and we can take it
11 up at that point.

12 THE COURT: Well, I'm always happy to hear that the
13 parties don't think you need court intervention.

14 MR. FODEMAN: I thought you might.

15 THE COURT: I was just -- I wanted for myself also
16 to know what I can be looking at down the road, in terms of
17 fiscally what's going to be the expenditures here. And I'll
18 leave it entirely up the defense team to determine whether you
19 want to submit hard drives or what format you want to do that.

20 And I, of course, encourage you to reach out to
21 Jerry Tritz, because the hard drives can get expensive and he
22 usually has various different sources for reasonably priced
23 equipment. And so I would encourage you to continue to follow
24 up with that.

25 And are you in agreement that you would -- it sounds

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1 like you will need at least an additional 60 days. I have
2 back-to-back trials so I continue, probably moving into the
3 month of December, to only have Fridays available. So we're
4 looking at around October; correct?

5 MR. FODEMAN: Yes, I think that makes sense. Judge,
6 one Friday I know I'm away in the middle of October.

7 THE COURT: I'm actually looking at maybe October
8 24th, in the afternoon.

9 MR. FODEMAN: That's fine. That's fine with us.

10 THE COURT: Is that good for the government?

11 MR. BUFORD: Yes it is, Your Honor.

12 THE COURT: Is 2:30 okay?

13 MR. BUFORD: Yes.

14 MR. FODEMAN: Judge, if I could just speak to my
15 client?

16 THE COURT: Sure. Of course.

17 (Defendant confers with counsel.)

18 MR. FODEMAN: The issue, Judge, is regarding prayer
19 and access to prayer, but I think that's more midday. Were
20 you proposing -- I'm sorry, 2 --

21 THE COURT: 2:30.

22 MR. FODEMAN: That should be fine. Presuming -- I
23 assume the marshals have an ability to provide folks with an
24 opportunity to pray downstairs during the 1:00 hour, whenever
25 that happens.

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1 THE COURT: I have one of the marshal supervisors
2 here and he's nodding his head yes, that that can be
3 accommodated.

4 MR. FODEMAN: Very good.

5 THE COURT: Okay. All right. So then 2:30 on
6 October 24th for a further status conference. This has been
7 deemed a complex case. Nonetheless, does the defense consent
8 to the exclusion of time?

9 MR. FODEMAN: If I can just run that by the client.

10 THE COURT: Of course.

11 (Defendant confers with counsel.)

12 MR. FODEMAN: Yes, that's fine, Judge.

13 THE COURT: So it's excluded, again, in the interest
14 of justice, it's a complex case, and also on consent.

15 And then there is an ex parte matter just relating
16 to CJA authorizations. If the government doesn't mind, I
17 would like to speak to Mr. Fodeman about that. And it has
18 nothing to do with the substance of the case.

19 And if there's nothing else -- anything else that
20 the parties want to address today?

21 MR. BUFORD: No, Your Honor.

22 MR. FODEMAN: Nothing from us.

23 THE COURT: Again, thank you for your patience this
24 morning. It's been a little hectic today. Marshals, you can
25 take charge. I just need to speak with Mr. Fodeman for one

1 minute.

2 MR. BUFORD: Thank you, Your Honor.

3 THE COURT: Thank you.

4 (Whereupon, the matter was concluded at 11:35 a.m.)

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1 I certify that the foregoing is a correct
2 transcript from the record of proceedings in the
3 above-entitled matter.

4
5 /s/ Sherry Bryant
6 Sherry Bryant, RMR, CRR
7 Official Court Reporter
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SHERRY BRYANT, RMR CRR